



U.S. Department of Justice

United States Attorney
Western District of Pennsylvania

Federal Courthouse
17 South Park Row
Room A330
Erie, Pennsylvania 16501

814/452-2906

May 2, 2019

Philip B. Friedman, Esquire
17 West Tenth Street
Erie, Pennsylvania 16501



Re: United States of America v.
JAMES FREDERICK FRANKS
Criminal No. 19-13 Erie

Dear Mr. Friedman:

This letter sets forth the agreement by which your client, JAMES FREDERICK FRANKS, will enter a plea of guilty in the above-captioned case. The letter represents the full and complete agreement between JAMES FREDERICK FRANKS and the United States Attorney for the Western District of Pennsylvania. The agreement does not apply to or bind any other federal, state, or local prosecuting authority.

Upon entering a plea of guilty, JAMES FREDERICK FRANKS will be sentenced under the Sentencing Reform Act, 18 U.S.C. § 3551, *et seq.* and 28 U.S.C. § 991, *et seq.* The Sentencing Guidelines promulgated by the United States Sentencing Commission will be considered by the Court in imposing sentence. The facts relevant to sentencing shall be determined initially by the United States Probation Office and finally by the United States District Court by a preponderance of the evidence.

- A. The defendant, JAMES FREDERICK FRANKS, agrees to the following:
1. He will waive prosecution by indictment and enter a plea of guilty to Count One of the Information (a draft copy of which is attached as Exhibit A) at Criminal No. 19-13 Erie, charging him with violating 21 U.S.C. §§ 843(a)(3) and 843(d)(1), pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

LIMITED OFFICIAL
USE

May 2, 2019

Page 2

2. He will pay mandatory restitution under the Victim-Witness Protection Act, 18 U.S.C. §§ 3663, 3663A and 3664, to the victims and/or other persons or parties authorized by law in such amounts, at such times, and according to such terms as the Court shall direct.
3. He will immediately notify the Court and the United States Attorney of any improvement in his economic circumstances that might increase his ability to pay restitution and that occurs from the date of this agreement until the completion of his sentence, including any term of supervised release.
4. At the time JAMES FREDERICK FRANKS enters his plea of guilty, he will deposit a special assessment of \$100 in the form of cash, check, or money order payable to "Clerk, U.S. District Court". In the event that sentence is not ultimately imposed, the special assessment deposit will be returned.
5. JAMES FREDERICK FRANKS waives the right to take a direct appeal from his conviction or sentence under 28 U.S.C. § 1291 or 18 U.S.C. § 3742, subject to the following exceptions:
 - (a) If the United States appeals from the sentence, JAMES FREDERICK FRANKS may take a direct appeal from the sentence.
 - (b) If (1) the sentence exceeds the applicable statutory limits set forth in the United States Code, or (2) the sentence unreasonably exceeds the guideline range determined by the Court under the Sentencing Guidelines, JAMES FREDERICK FRANKS may take a direct appeal from the sentence.

Defendant further waives the right to file a motion to vacate sentence under 28 U.S.C. § 2255, attacking his conviction or sentence and the right to file any other collateral proceeding attacking his conviction or sentence.

Nothing in the foregoing waivers of rights shall preclude the defendant from raising a claim of ineffective assistance of counsel in an appropriate forum, if otherwise permitted by law. The defendant understands that the government retains its right to oppose any such claim on procedural or substantive grounds.

B. In consideration of and entirely contingent upon the provisions of Parts A and C of this agreement, the United States Attorney for the Western District of Pennsylvania agrees to the following:

1. The United States Attorney retains the right of allocution at the time of sentencing to advise the sentencing Court of the full nature and extent of

May 2, 2019

Page 3

the involvement of JAMES FREDERICK FRANKS in the offense charged in the Information and of any other matters relevant to the imposition of a fair and just sentence.

2. The United States agrees to recommend a two-level downward adjustment for acceptance of responsibility and, pursuant to U.S.S.G. § 3E1.1(b), to move for an additional one-level adjustment. However, if at any time prior to imposition of the sentence, the defendant fails to fully satisfy the criteria set forth in U.S.S.G. § 3E1.1, or acts in a manner inconsistent with acceptance of responsibility, the United States will not make or, if already made, will withdraw this recommendation and motion.
3. The United States Attorney will take any position he deems appropriate in the course of any appeals from the sentence or in response to any post-sentence motions.

C. JAMES FREDERICK FRANKS and the United States Attorney further understand and agree to the following:

1. The penalty that may be imposed upon JAMES FREDERICK FRANKS is:
 - (a) A term of imprisonment of not more than four (4) years;
 - (b) A fine of \$250,000;
 - (c) A term of supervised release of one (1) year;
 - (d) A special assessment under 18 U.S.C. § 3013 of \$100.
2. The Court shall determine the victims and/or other persons or parties who will receive restitution as authorized by law.
3. This agreement does not preclude the government from pursuing any civil or administrative remedies against JAMES FREDERICK FRANKS or his property.
4. Pursuant to the Standing Order of the United States District Court dated May 31, 2017, all plea letters shall include a sealed Supplement. The sealed Supplement to this plea letter is part of the agreement between the parties hereto.

May 2, 2019

Page 4

This letter sets forth the full and complete terms and conditions of the agreement between JAMES FREDERICK FRANKS and the United States Attorney for the Western District of Pennsylvania, and there are no other agreements, promises, terms or conditions, express or implied.

Very truly yours,



SCOTT W. BRADY
United States Attorney

I have received this letter from my attorney, Philip B. Friedman, Esquire, have read it and discussed it with him, and I understand the terms of the Agreement. I hereby accept it and acknowledge that it fully sets forth my agreement with the Office of the United States Attorney for the Western District of Pennsylvania. I affirm that there have been no additional promises or representations made to me by any agents or officials of the United States in connection with this matter.



JAMES FREDERICK FRANKS

6/25/19

Date

Witnessed by:



PHILIP B. FRIEDMAN, ESQUIRE
Counsel for JAMES FREDERICK FRANKS